

SENATE BILL 323
By Fowler

AN ACT to amend Tennessee Code Annotated, Title 36, relative to domestic relations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-4-101, is amended by adding the following new subdivision:

() Domestic abuse, which is defined for purposes of this part as:

(A) Intentionally inflicting or attempting to inflict bodily injury or physical restraint on a spouse;

(B) Intentionally causing a spouse to fear imminent bodily injury or physical restraint; or

(C) Maliciously damaging the personal property of a spouse.

SECTION 2. Tennessee Code Annotated, Section 36-4-101, is further amended by adding before the semicolon (;) and word "and" at the end of subdivision (11) the language ", as provided in §36-4-103".

SECTION 3. Tennessee Code Annotated, Section 36-4-102, is amended by deleting the section in its entirety and by substituting instead the following:

(a) In addition to the causes listed in § 36-4-101, the following are causes for a legal separation:

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(1) The husband or wife is guilty of such cruel and inhuman treatment or conduct towards his or her spouse that cohabitation is rendered unsafe and improper; or

(2) One spouse has abandoned the other.

(b) The circuit, chancery or such other court empowered to grant a divorce also has the power to grant an absolute divorce to either party where there has been a final decree of legal separation for more than two (2) years, upon a petition being filed by either party that sets forth the original decree for legal separation or separate maintenance, and that the parties have not become reconciled. The court granting the absolute divorce shall make a final and complete adjudication of the support and property rights of the parties. Provided, nothing in this subsection precludes the court from granting an absolute divorce before the two (2) year period has expired and nothing shall authorize the court to grant a divorce contrary to the other provisions of §36-4-103.

SECTION 4. Tennessee Code Annotated, Section 36-4-116(a), is amended by deleting the language “divorce from bed and board” and substituting instead the language “legal separation”.

SECTION 5. Tennessee Code Annotated, Section 36-4-129, is amended by deleting the section in its entirety and substituting instead the following:

(a) In all actions for divorce from the bonds of matrimony or for a legal separation, the parties may stipulate as to grounds and/or defenses. Provided, if the parties have an unmarried child under eighteen (18) years of age, the parties may not stipulate as to a fault-based ground for divorce or irreconcilable differences.

(b) The court may, upon such stipulations or upon proof, grant a divorce to the party who was less at fault or, if either or both parties are entitled to a divorce, declare the parties to be divorced, rather than awarding a divorce to either party alone.

SECTION. 6. Tennessee Code Annotated, Title 36, Chapter 4, is amended by adding the following new section:

(a) In an action for dissolution of marriage involving minor children, the court may on its own motion appoint a guardian ad litem for any minor child of the marriage or upon the request of a minor who has attained the age of fourteen (14) years.

(b) The reasonable fees or costs of the guardian ad litem shall be borne by the parties and may be assessed by the court as it deems equitable. Such fees or costs may be waived upon motion for an indigent person.

SECTION 7. Tennessee Code Annotated, Section 36-6-101(e)(1), is amended by inserting in the first sentence between the words “or” and “on” the word “shall”.

SECTION 8. Tennessee Code Annotated, Section 36-6-101(e), is amended by deleting subdivision (3) and substituting instead the following:

(3) A court may deny the granting of a divorce for the failure of either or both parties to attend all sessions of the educational seminar except for good cause shown.

SECTION 9. Tennessee Code Annotated, Section 36-4-106, is amended by deleting the catchline for such section and substituting instead the catchline “**Contents of petition for divorce and legal separation**”.

SECTION 10. Tennessee Code Annotated, Section 36-4-106(a), is amended by deleting from the first sentence the language “The bill or petition shall set forth” and substituting instead the language “The bill or petition for divorce shall set forth”.

SECTION 11. Tennessee Code Annotated, Section 36-4-106, is further amended by designating the language of subsection (a) as subdivision (a)(1) and by adding the following new subdivision:

(a)(2) The bill or petition for legal separation shall set forth the grounds for legal separation in substantially the language of §36-4-102, and pray for such further relief to

which the complainant is entitled. In all cases where an answer is filed, the court shall, on motion of the defendant, require the complainant to file a bill of particulars, stating the facts relied on as a ground for legal separation, with reasonable certainty as to time and place.

SECTION 12. Tennessee Code Annotated, Section 36-4-106, is amended by deleting from the first sentence of subsection (b) the language “The complainant shall” and substituting instead the language “The complainant in a bill or petition for divorce or for legal separation shall”.

SECTION 13. Tennessee Code Annotated, Section 36-4-106, is amended by adding the following new subsections:

(d) A complainant may plead in the alternative for either divorce or legal separation. If pled in the alternative, then by motion the complainant shall elect a legal separation or a divorce. Upon a motion for a divorce, the court shall set a hearing date.

(e) A bill or petition for legal separation only may be converted to an action for divorce upon the filing of an amended bill or petition setting forth the grounds for divorce.

(f) In an action for dissolution of marriage involving minor children, even if pled in the alternative, the defendant shall serve an answer or responsive pleading within sixty (60) days from service of the complaint and summons. If an action for legal separation only is converted pursuant to §36-4-106(e) to an action for divorce, the defendant shall serve an answer or responsive pleading within thirty (30) days from service of the amended bill or petition.

SECTION 14. Tennessee Code Annotated, Section 36-4-103, is amended by deleting from the first sentence of subsection (c) the language “ninety (90)” and substituting instead the language “one hundred eighty (180)”.

SECTION 15. Tennessee Code Annotated, Section 36-4-103, is amended by deleting from the second sentence of subsection (c) the language “ninety-day” and substituting instead the language “one hundred eighty-day”.

SECTION 16. Tennessee Code Annotated, Section 36-4-103, is amended by adding the following to the end of subdivision (c)(1):

The court may, after expiration of such one hundred eighty (180) day period, refuse to grant the divorce on the grounds of irreconcilable differences if the court finds that such divorce would not be in the best interests of the minor children of the marriage.

SECTION 17. This act shall take effect July 1, 1997, the public welfare requiring it.